

Serial No. 09/741,908

Attorney Docket No. 69.001

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**REMARKS**

Claims 1-3 and 5-23 are pending. Claim 4 has been canceled. The applicants respectfully request reconsideration and allowance of this application in view of the above amendments and the following remarks.

Claims 1-4, 6-13 and 16-19 were rejected under 35 USC 102(e) as being anticipated by U.S. Patent Pub. No. 2001/0018672, Petters et al. ("Petters"). Claims 5 and 15 were rejected under 35 USC 103(a) as being unpatentable over Petters in view of U.S. Patent No. 5,987,429, Maritzen et al. ("Maritzen"). Claim 14 was rejected under 35 USC 103(a) as being unpatentable over Petters in view of allegedly obvious cross product pricing.

By way of the above amendment, the substance of claim 4 is incorporated into claim 1, and claim 4 is canceled. Further support for the amended claims is located in the application as filed, for example, page 5, lines 34-35; page 7, lines 22-23; page 9, lines 14-17; page 14, lines 5-11 and 26; page 15, lines 11-13; page 17, lines 20-22; page 18, lines 25-26; FIG. 6 and other figures. Insofar as the rejections may be applied to the claims as amended, the applicants respectfully request that the rejections be withdrawn for reasons including the following. The following provide non-exhaustive examples of recitations in the claims, which in combination with other recitations are deemed to render the claims patentable over the references.

Independent claims 1, 12, 13, 14, 15, 16, 18, and 19 as amended recites a dynamic pricing plan in further detail. In claim 1, for example, there are plural different pricing plans. Each pricing plan includes a decision network, where a node of the decision network includes at least one rule, and the rules can be shared among plural pricing plans. A path from the node for an exchange transaction is determined from the outcome of the at least one rule using the exchange transaction corresponding to the electronic entity event as input. The at least one rule

Serial No. 09/741,908

Attorney Docket No. 69.001

can specify use of the collection to determine the outcome of the at least one rule. The rules are stored in a database. Therefore, the pricing includes selecting the pricing plan for one of the parties of the exchange transaction, traversing the decision network in the selected pricing plan, and executing the rules in the traversed path through the decision network according to the electronic entity event, to calculate the price.

Consequently, the exchange can store multiple different pricing plans. Decision networks for modified or new pricing plans can be easily set up without requiring additional code. Furthermore, because the pricing plans are decision networks of rules, and because the rules are stored in a database, additional code is not needed to interpret rules, or calculate charges or discounts.

The examiner argues that Petters discloses a dynamic pricing plan as a decision network having rule-based functions [0103-0106]. Petters discusses a scrubbing agent which charges a seller a fee which is the agent markup ultimately based on a percentage of the value of the total inventory [0103-0106], and optionally further considering the services rendered [103-105] and/or the quality of the buyer [0106].

Petters, however, fails to teach or suggest a dynamic pricing plan which is a decision network, where a node of the decision network includes rules. Further, Petters fails to teach or suggest that the rules are stored in a database. In addition, Petters fails to teach or suggest accumulating electronic entity events into a collection, that the rule uses the exchange transaction as input, and that the rule can specify use of the collection to determine the outcome of the rule. Petters also fails to teach or suggest that there are different pricing plans which can be selected based on the electronic entity event, e.g., the first, second or third party (claims 1,12); at least

Serial No. 09/741,908

Attorney Docket No. 69,001

one party (claim 13), the electronic exchange event (claims 14, 16, 18); or the buyer or seller (claim 15). To the contrary, Petters simply applies standard calculations.

The examiner argues that Maritzen remedies the deficiencies of Petters. In Maritzen, fees due from a particular transaction are processed by building a transaction event object for the particular transaction. Then, the fee rules are retrieved from a fee rule database, it is determined whether the fee rule applies to the information in the transaction event object, and (if the rule applies), the fee is calculated based on the fee rule and information in the transaction event object. (Abstract.)

Maritzen, however, fails to teach or suggest a dynamic pricing plan which is a decision network. In addition, Maritzen fails to teach or suggest the plural different pricing plans, which are selected based on the electronic entity event, e.g., the first, second or third party (claims 1,12); at least one party (claim 13), the electronic exchange event (claims 14, 16, 18); or the buyer or seller (claim 15). To the contrary, Maritzen operates in a completely different manner by building transaction event objects for each transaction.

Paragraph 3 of the final office action argues that Petters' agent markup of the total value of the inventory being sold on the website meets the limitation of a collection of exchange transactions. However, this fails to teach or suggest rules for pricing which can use accumulated exchange transactions – not inventory. Nothing in Petters teaches or suggests accumulating transactions, let alone determining pricing based on accumulated transactions as recited. For this additional reason, independent claims 1, 12, 13, 14, 15, 16, and 18 and dependent claims 20-23 are patentable over the references.

Hence, even if Petters and Maritzen are combined as proposed – an applicants vigorously deny that they can be successfully combined – the combination still would lack at least the

Serial No. 09/741,908

Attorney Docket No. 69.001

accumulating of the electronic entity events into a collection, the rules which can use the collection to determine the outcome and as well use the electronic entity event as input, the plural different pricing plans including a decision network with nodes including the rule(s), and executing the rules in the traversed path through the decision network to calculate the price. Consequently, Petters and/or Maritzen, alone or in combination, fail to teach or suggest the combination of features recited in independent claim 1, when considered as a whole.

The remaining references of record fail to remedy the deficiencies of the cited references.

With respect to the rejected dependent claims, applicant respectfully submits that these claims are allowable not only by virtue of their dependency from the independent claims, but also because of additional features they recite in combination.

New claims 20-23 have been added to further define the invention, and are believed to be patentable for reasons including these set out above. Support for the amendments and the new claims are located in the specification, for example page 7, line 33 through page 8, line 20; and page 9, lines 22-23 and 30.

The applicants respectfully submit that, as described above, the cited prior art does not show or suggest the combination of features recited in the claims. The applicants do not concede that the cited prior art shows any of the elements recited in the claims. However, the applicants have provided specific examples of elements in the claims that are clearly not present in the cited prior art.

The applicants strongly emphasize that one reviewing the prosecution history should not interpret any of the examples applicants have described herein in connection with distinguishing over the prior art as limiting to those specific features in isolation. Rather, for the sake of

Serial No. 09/741,908

Attorney Docket No. 69.001

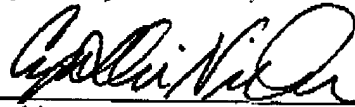
simplicity, applicants have provided examples of why the claims described above are distinguishable over the cited prior art.

In view of the foregoing, the applicants submit that this application is in condition for allowance. A timely notice to that effect is respectfully requested. If questions relating to patentability remain, the examiner is invited to contact the undersigned by telephone.

If there are any problems with the payment of fees, please charge any underpayments and credit any overpayments to Deposit Account No. 50-1147.

This Amendment is submitted by the undersigned registered patent attorney in accordance with 37 CFR 1.34.

Respectfully submitted,



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